

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>GLEND A D. JONAS</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 192,426
<b>TOWANDA PUBLISHING COMPANY</b>	)	
Respondent	)	
AND	)	
	)	
<b>THOMAS McGEE &amp; SONS</b>	)	
Insurance Carrier	)	

**ORDER**

Respondent's Application for Review of an Award entered by Administrative Law Judge Nelsonna Potts Barnes dated December 10, 1996, came on before the Appeals Board.

**APPEARANCES**

Claimant appeared by and through her attorney, James B. Zongker of Wichita, Kansas. Respondent and its insurance carrier appeared by and through their attorney, Kirby A. Vernon of Wichita, Kansas. There were no other appearances.

**RECORD AND STIPULATIONS**

The record and stipulations as specifically set forth in the Award of the Administrative Law Judge are herein adopted by the Appeals Board.

**ISSUES**

What, if any, is the nature and extent of claimant's injury and/or disability?

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the whole evidentiary record including the stipulations of the parties, the Appeals Board makes the following findings of fact and conclusions of law:

The Appeals Board finds that the Award of the Administrative Law Judge sets out findings of fact and conclusions of law in some detail and it is not necessary to repeat those herein. The findings and conclusions enumerated in the Award of the Administrative Law Judge are both accurate and appropriate and the Appeals Board adopts the same as its own findings and conclusions as if specifically set forth herein.

The Administrative Law Judge found claimant entitled to a work disability of 60.5 percent which is an average of the opinions of Dr. Ernest R. Schlachter and Dr. George Lucas in assessing claimant's loss of ability to perform work tasks which she has performed over the last 15 years, averaged with a comparison of claimant's pre-injury average weekly wage and her post-injury average weekly wage.

Respondent argues claimant is entitled to a functional impairment only due to the fact claimant was terminated for cause. Claimant's termination for cause resulted from poor work performance evaluations which began not long after claimant developed the upper extremity problems for which she was being treated. It is significant in the minds of the Appeals Board that claimant's performance over the previous 13 years working for respondent was satisfactory until her upper extremity problems began to develop. In this instance, the evidence does not support a finding that claimant was fired for poor work performance unrelated to her injury. The sudden emergence of the poor evaluations after claimant began developing the upper extremity problems indicates a direct connection with her work-related injury.

### **AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Nelsonna Potts Barnes dated December 10, 1996, should be, and is hereby, affirmed in all respects and an award is granted in favor of claimant, Glenda D. Jonas, and against the respondent, Towanda Publishing Company, and its insurance carrier, Thomas McGee & Sons, for an accidental injury occurring on July 19, 1994.

Claimant is entitled to 44.57 weeks of temporary total disability compensation at the rate of \$276.23 in the amount of \$12,311.57, followed by 233.19 weeks of permanent partial disability compensation at the rate of \$276.23 per week totaling \$64,414.07 for a total award of \$76,725.64.

As of March 28, 1997, there would be due and owing to claimant 44.57 weeks of temporary total disability compensation at the rate of \$276.23 per week in the sum of \$12,311.57, followed by 95.86 weeks of permanent partial general body disability at the rate of \$276.23 per week totaling \$26,479.41 for a total due and owing of \$38,790.98 which is ordered paid in one lump sum minus amounts previously paid. Thereafter claimant is entitled to 137.33 weeks of permanent partial general body disability at the rate of \$276.23 per week totaling \$37,934.67 until fully paid or until further order of the Director.

Claimant is entitled to unauthorized medical up to the statutory maximum upon presentation of an itemized statement verifying same. Future medical benefits will be awarded upon proper application to and approval by the Director of Workers Compensation.

Claimant's attorney fees are approved subject to the provisions of K.S.A. 44-536.

The fees necessary to defray the expense of the administration of the Workers Compensation Act are hereby assessed against the respondent and its insurance carrier to be paid as follows:

Ireland Court Reporting	
Deposition of Regular Hearing	\$223.00
Barber & Associates	
Deposition of Glenda D. Jonas	\$106.00
Bannon & Associates	
Deposition of George Lucas, M.D.	\$171.30
Deposition of Karen Crist Terrill	81.70
Deposition of Mary E. Feast	124.30
Deposition of Jeff A. Johnson	197.60
Deposition of Jerry D. Hardin	166.60
Deposition of Ernest R. Schlacter, M.D.	162.70

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of April 1997.

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BOARD MEMBER

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c: James B. Zongker, Wichita, KS  
 Kirby A. Vernon, Wichita, KS  
 Nelsonna Potts Barnes, Administrative Law Judge  
 Philip S. Harness, Director